

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

UNITED STATES of AMERICA)
)
 v.)) No. 5:06-HC-2219-BR
)
 DONALD BRONCHEAU)

UNITED STATES of AMERICA)
)
 v.)) No. 5:06-HC-2222-BR
)
 ANDREW RED STAR)

UNITED STATES of AMERICA)
)
 v.)) No. 5:06-HC-2228-BR
)
 LEROY MILLER)

UNITED STATES of AMERICA)
v.)
JOHNNY ALLEN HASS)) No. 5:07-HC-2015-BR

UNITED STATES of AMERICA)	
)	
v.)	No. 5:07-HC-2025-BR
)	
<u>SCOTT KEVIN COMBE</u>)	
UNITED STATES of AMERICA)	
)	
v.)	No. 5:07-HC-2026-BR
)	
<u>LAWRENCE J. BROWN</u>)	

UNITED STATES of AMERICA)
)
 v.)) No. 5:07-HC-2032-BR
)
MIKEL BOLANDER)

UNITED STATES of AMERICA)
v.)
BYRON NEIL ANTONE)) No. 5:07-HC-2042-BR

UNITED STATES of AMERICA)
)
 v.)) No. 5:07-HC-2049-BR
)
 SEYMORE BILAGODY)

UNITED STATES of AMERICA)
)
 v.)) No. 5:07-HC-2050-BR
)
 CHRISTOPHER A. MOORE)

UNITED STATES of AMERICA)
)
 v.)) No. 5:07-HC-2062-BR
)
 ZACHARY BROWN)

UNITED STATES of AMERICA)
v.)
JOSEPH FRANK)
) No. 5:07-HC-2072-BR

UNITED STATES of AMERICA)
)
 v.)) No. 5:07-HC-2078-BR
)
 ATIBA WADE)

UNITED STATES of AMERICA)
)
 v.)) No. 5:07-HC-2097-BR
)
 HOBART J. BARRETT JR.)

UNITED STATES of AMERICA)
)
 v.)) No. 5:07-HC-2100-BR
)
 ROBERT BROWN)

UNITED STATES of AMERICA)
)
 v.)) No. 5:07-HC-2123-BR
)
 GRADY EWING MAYS)

UNITED STATES of AMERICA

v.)) No. 5:07-HC-2125-BR
STANLEY CARL BURKHARDT)

UNITED STATES of AMERICA))
v.)) No. 5:07-HC-2129-BR
WILLIE DOGGETT)

UNITED STATES of AMERICA))
v.)) No. 5:07-HC-2131-BR
RICHARD JOHN GRIFFIS)

UNITED STATES of AMERICA))
v.)) No. 5:07-HC-2139-BR
ANDREW D. SHERADIN)

UNITED STATES of AMERICA))
v.)) No. 5:07-HC-2148-BR
JERRY T. ROGERS)

UNITED STATES of AMERICA))
v.)) No. 5:07-HC-2152-BR
GEORGE ALBERT HOOD)

UNITED STATES of AMERICA))
v.)) No. 5:07-HC-2165-BR
RAFIQ ZAREEF MUHAYMIN)

UNITED STATES of AMERICA)
)
 v.)) No. 5:07-HC-2166-BR
)
DAVID HENRY TOBEY)

UNITED STATES of AMERICA)
v.)
MARC CHRISTOPHER TURNER)) No. 5:07-HC-2167-BR

UNITED STATES of AMERICA)
)
 v.)) No. 5:07-HC-2175-BR
)
 DARRELL WAYNE HUFSTETLER)

UNITED STATES of AMERICA)
v.)
JESS WILLIAM MARTIN)) No. 5:07-HC-2176-BR

UNITED STATES of AMERICA)
v.)
JAMES BARTON HORN)) No. 5:07-HC-2177-BR

UNITED STATES of AMERICA)
v.)
MATHIAS THOMAS KOPP)) No. 5:07-HC-2185-BR

UNITED STATES of AMERICA)
)
 v.)) No. 5:07-HC-2198-BR
)
WILLIAM THORNS)

UNITED STATES of AMERICA)
v.)
DOUGLAS ATHERTON)) No. 5:07-HC-2200-BR

UNITED STATES of AMERICA)
)
 v.)) No. 5:07-HC-2204-BR
)
 ROBERT WAYNE FISCUS)

UNITED STATES of AMERICA)
)
 v.)) No. 5:07-HC-2205-BR
)
 MARTIN ANDREWS)

UNITED STATES of AMERICA)
v.)
ANDREW F. GALO)) No. 5:07-HC-2207-BR

UNITED STATES of AMERICA)
v.)
LARRY WALKER)
) No. 5:07-HC-2209-BR

UNITED STATES of AMERICA)
v.)
MICHAEL PARDEE)) No. 5:08-HC-2032-BR

UNITED STATES of AMERICA)
)
 v.)) No. 5:08-HC-2033-BR
)
 DARRIN MARANDA)

UNITED STATES of AMERICA)
)
 v.)) No. 5:08-HC-2034-BR
)
 ROBERT SEGER)

ORDER

In all but one of the above-captioned cases, on 9 January 2009, the respondents filed motions for their release “for the reasons provided in *United States v. Comstock*,” 551 F.3d 274 (4th Cir. 2009), and on 22 January 2009, the government filed motions to stay the actions pending further appellate process.¹ Additionally, by orders filed 10 January and 11 March 2008, the court held many of the above-captioned actions in abeyance pending the appellate process in *Comstock*.

By order filed 17 May 2010, the United States Supreme Court issued an opinion in United States v. Comstock, No. 08-1224, 560 U.S. ____ (2010), which

conclude[d] that [§ 4248] is a “necessary and proper” means of exercising the federal

¹ No such motions were filed in United States v. Hufstetler, 5:07-HC-2175-BR.

authority that permits Congress to create federal criminal laws, to punish their violation, to imprison violators, to provide appropriately for those imprisoned, and to maintain the security of those who are not imprisoned but who may be affected by the federal imprisonment of others.

(Slip Op. at 22.) Accordingly, the respondents' motions for release are DENIED.

However, the Supreme Court emphasized that its holding was limited to Congress' power to enact § 4248 under the Necessary and Proper Clause. Notably, the penultimate paragraph of the majority opinion states:

We do not reach or decide any claim that the statute or its application denies equal protection of the laws, procedural or substantive due process, or any other rights guaranteed by the Constitution. *Respondents are free to pursue those claims on remand, and any others they have preserved.*

(Id. (emphasis added).)

Accordingly, the government's motions for stay are likewise DENIED, and the court hereby lifts any stay or abeyance ordered in the above-captioned cases, to allow respondents to either proceed with additional constitutional challenges, or evidentiary hearings as they see fit.

This 11 June 2010.



W. Earl Britt
Senior U.S. District Judge

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